

**ORIGINAL**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA :

-v- :

LETHEM DUNCAN, :

Defendant. :

- - - - -x

USDC SDNY DOCUMENT ELECTRONICALLY FILED INFORMATION DOC #: DATE FILED: JUL 15 2008
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**08 CRIM.**

**644**

COUNT ONE

(Conspiracy to Embezzle Funds)

The United States Attorney charges:

1. From in or about 2004, through and including March 17, 2008, in the Southern District of New York and elsewhere, LETHEM DUNCAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to violate Section 666(a)(1)(A) of Title 18, United States Code.

2. It was a part and an object of the conspiracy that LETHEM DUNCAN, the defendant, being an agent of a local government agency that received in a one-year period benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, to wit, the New York City Administration for Children's Services ("ACS"), and others known and unknown, unlawfully, willfully, and knowingly would and did embezzle, steal, obtain by fraud, and otherwise without authority knowingly

convert to the use of a person other than the rightful owner and intentionally misapply property that was valued at \$5,000 and more and was owned by, and under the care, custody, and control of such local government agency, in violation of Title 18, United States Code, Section 666(a)(1)(A).

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about June 2005, in New York, New York, LETHEM DUNCAN, the defendant, caused a \$375,000 check drawn on an account owned by the City of New York to be delivered to a co-conspirator not named as a defendant herein ("CC-1").

b. On or about June 17, 2005, CC-1 paid LETHEM DUNCAN, the defendant, approximately \$50,000.

c. On or about June 24, 2005, CC-1 paid LETHEM DUNCAN, the defendant, approximately \$61,000.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Embezzlement)

The United States Attorney further charges:

4. From in or about June 2005, through and including on or about March 17, 2008, in the Southern District of New York,

and elsewhere, LETHEM DUNCAN, the defendant, being an agent of a local government agency that received in a one-year period benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, to wit, ACS, unlawfully, willfully, and knowingly did embezzle, steal, obtain by fraud, and otherwise without authority knowingly convert to the use of a person other than the rightful owner and intentionally misapply property that was valued at \$5,000 and more and was owned by, and under the care, custody, and control of such local government agency, to wit, DUNCAN authorized ACS to pay CC-1 approximately \$375,000 for services that were never provided, and received from CC-1 a portion of those funds.

(Title 18, United States Code, Sections 666(a)(1)(A) and 2.)

**COUNT THREE**

(Conspiracy to Commit Mail Fraud)

The United States Attorney further charges:

5. From in or about 2004, through and including on or about March 17, 2008, in the Southern District of New York and elsewhere, LETHEM DUNCAN, the defendant, and others known and unknown, unlawfully, willfully and knowingly, did combine, conspire, confederate and agree together and with each other to commit certain offenses against the United States, to wit, to violate Section 1341 of Title 18, United States Code.

6. It was a part and an object of the conspiracy that LETHEM DUNCAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did, for the purpose of executing such scheme and artifice and attempt so to do, place in a post office and authorized depository for mail matter, a matter or thing to be sent or delivered by the Postal Service, and deposit and cause to be deposited a matter or thing to be sent and delivered by a private and commercial interstate carrier, and take and receive therefrom, any such matter or thing, and knowingly cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter and thing, in violation of Title 18, United States Code, Section 1341.

Overt Acts

7. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about the Fall of 2004, in New York, New York, LETHEM DUNCAN, the defendant, provided the name of a

co-conspirator not named as a defendant herein ("CC-2") to another co-conspirator not named as a defendant herein ("CC-3"), so that CC-3 could cause fraudulent adoption subsidy payments to be mailed to CC-2.

b. On various occasions between the Fall of 2004 and March 2008, in New York, New York, LETHEM DUNCAN, the defendant, received cash payments from CC-2, representing his and CC-3's portion of the fraudulently-obtained adoption subsidy payments.

(Title 18, United States Code, Section 1349.)

**COUNT FOUR**

(Mail Fraud)

The United States Attorney further charges:

8. From in or about the Fall of 2004, through and including March 17, 2008, in the Southern District of New York and elsewhere, LETHEM DUNCAN, the defendant, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did, for the purpose of executing such scheme and artifice and attempt so to do, place in a post office and authorized depository for mail matter, a matter or thing to be sent or delivered by the Postal Service, and deposit and cause to be deposited a matter or thing to be sent

and delivered by a private and commercial interstate carrier, and take and receive therefrom, any such matter or thing, and knowingly cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter and thing, to wit, DUNCAN, CC-2, and CC-3 obtained adoption subsidy payments to which they were not entitled by having fraudulent adoption subsidy checks sent to CC-2 by United States mail.

(Title 18, United States Code, Sections 1341 and 2.)

**COUNT FIVE**

(Money Laundering)

The United States Attorney further charges:

9. From in or about 2004, through and including on or about March 17, 2008, in the Southern District of New York and elsewhere, LETHEM DUNCAN, the defendant, did knowingly engage and attempt to engage in monetary transactions in criminally derived property of a value greater than \$10,000 that was derived from specified unlawful activity, to wit, DUNCAN deposited checks, including checks for \$25,000, \$50,000, and \$61,000, into his bank account, which constituted funds obtained through the embezzlement and mail fraud schemes charged in Counts One, Two, Three, and Four of this Information.

(Title 18, United States Code, Section 1957.)

**COUNT SIX**

(Accepting Gratuities)

The United States Attorney further charges:

10. From in or about 2004, through and including in or about June 2005, in the Southern District of New York and elsewhere, LETHEM DUNCAN, the defendant, being an agent of a local government agency that received in a one-year period benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, to wit, ACS, unlawfully, willfully, and knowingly did corruptly solicit and demand for the benefit of a person, and accept and agree to accept a thing of value from a person, intending to be influenced and rewarded in connection with a business, transaction, and series of transactions of such local government agency involving a thing of value of \$5,000 and more, to wit, DUNCAN accepted more than \$5,000 in cash payments from CC-2, who was employed at a non-profit foster care agency (the "Agency"), as a reward for DUNCAN having facilitated prompt payments of invoices submitted by the Agency to ACS.

(Title 18, United States Code, Section 666(a)(1)(B).)

**FORFEITURE ALLEGATIONS**

11. As a result of committing the embezzlement conspiracy, embezzlement, mail fraud conspiracy, mail fraud, and money laundering offenses alleged in Counts One, Two, Three,

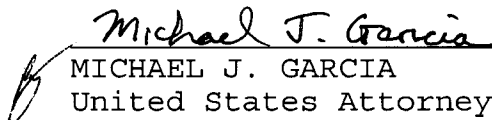
Four, and Five of this Information, LETHEM DUNCAN, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 982, all property, real and personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violations.

12. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value;  
or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982.)

  
MICHAEL J. GARCIA  
United States Attorney



Form No. USA-33s-274 (Ed. 9-25-58)

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SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

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Defendant.

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INFORMATION

08 Cr.

(18 U.S.C. §§ 371, 666(a)(1)(A),  
666(a)(1)(B), 1341, 1349, 1957, and 2.)

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MICHAEL J. GARCIA  
United States Attorney.

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7/15/2008 FILED WAIVER OF INDICTMENT AND INFORMATION. DEFT PLEADS NOT GUILTY TO INFORMATION. DEFT PRES W/ADP STEVEN FRANKEL, AUSA DANIEL STEIN, REPORTER PAULA SPEER. PRETRIAL CONFERENCE, ADJOURNED TO 7/31/2008. TIME EXCLUDED FROM 7/15/2008 TO 7/31/2008. DEFT RELEASED RON, BAIL EXT TO NJ; SURR PP BY 7/17/2008; NO NEW PP.

- JUDGE KOEHLER